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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

BRIAN K. MILLER,  
Defendant.

MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
AMEND

Case No. 2:02-CR-631 TS  
District Judge Ted Stewart

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This matter is before the Court on Defendant's Motion to Amend. Defendant seeks to amend the restitution order in this case. For the reasons discussed below, the Court will grant the Motion.

I. BACKGROUND

On October 10, 2002, Defendant was charged with three counts of bank fraud. Defendant pleaded guilty on January 30, 2003, and was sentenced on April 15, 2003. As part of his sentence, Defendant was ordered to pay restitution in the amount of \$26,961.40. In particular, Defendant was ordered to pay restitution in the following amounts:

\$481.04 to University of Utah Credit Union

\$4,046.00 to Transwest Credit Union

\$10,354.00 to Wells Fargo Credit Union

\$4,305.00 to Utah Community Credit Union

\$7,775.00 to Hercules Credit Union

As of the date of this Order, Defendant has paid a total of \$17,100.00 in restitution payments, leaving \$9,861.04 outstanding. As is relevant to this Motion, Defendant has paid \$4,931.64 to Hercules Credit Union, leaving \$2,843.36 owing to Hercules Credit Union.

In his Motion, Defendant represents that he settled a civil case with Hercules Credit Union. Defendant attached a Satisfaction of Judgment, showing that the judgment obtained by Hercules Credit Union against him in state court has been fully satisfied. The government has confirmed that Defendant has satisfied his restitution obligation to Hercules Credit Union. Defendant seeks to amend the restitution order to remove the balance that is outstanding to Hercules Credit Union.

## II. DISCUSSION

18 U.S.C. 3664(j)(2) provides that “[a]ny amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim” in a federal or state civil proceeding. Based upon the above, the Court finds that Defendant has fully satisfied his restitution obligation as to Hercules Credit Union. Therefore, Defendant has no outstanding obligation as to that victim. The Court will reduce the remaining restitution amount (\$9,861.04) by the amount that was outstanding as to Hercules Credit Union (\$2,843.36), leaving a total restitution amount of \$7,017.68 owing to the remaining victims.

### III. CONCLUSION

It is therefore

ORDERED that Defendant's Motion to Amend (Docket No. 34) is GRANTED. The Court will enter an amended judgment reflecting that Defendant owes the restitution in the amount of \$7,017.68, as follows:

\$176.66 to University of Utah Credit Union

\$1,479.10 to Transwest Credit Union


\$3,787.98 to Wells Fargo Credit Union

\$1,573.94 to Utah Community Credit Union

\$0 to Hercules Credit Union

DATED this 5th day of May, 2014.

BY THE COURT:



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Ted Stewart  
United States District Judge